(23)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ

WRIT PETITION NO.5562 OF 2005

Petitioner Pitamber Prasad, Aged about 40 years
S/o Late Shri Mayaram Soni,
R/o Badi Bazar, Ratanpur,
Tahsil Kota, Distt: Bilaspur (CG)

VERSUS

Respondents

(1) Girdhar Gopal, S/o Shri Dhanna Gupta, Proprietor Gopal General Stores, Ratanpur, Tahsil Kota, District: Bilaspur (CG)

(2) Om Prakash Gupta,
S/o Shri Dhanna Gupta
R/o Rdatanpur, Tahsil Kota,
District Bilaspur (CG)

(3) Ramesh Kumar Soni
S/o Lakhanlal Soni, Section Engineer Electricals (General),
South Eastern Railway, Manendragarh,
District Korea (CG).

Present:

Mr. P. L. Swarnkar, learned counsel for the petitioner.

ORAL ORDER
(Passed on 28th of November 2005)

In this writ petition filed under Article 227 of the Constitution of India, the order of the Court below ordering the application filed by third respondent filed under Order 1, Rule 10 of the Code of Civil Procedure is assailed. It was contended by learned counsel for the petitioner that in a eviction suit, the Court should not go into the title question and therefore, respondent No.3 could not have been impleaded as a party – defendant to the suit. Admittedly, it is the case of the third respondent that he is in the

actual physical possession of the suit schedule property. In view of this specific pleading, it cannot be said that he is not a necessary and proper party to the suit. The order made by the Court below, therefore, could not be faulted with. The writ petition is dismissed, however, with no costs.

Sd/-
Chief Justice

Brajesh